



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 0 5 2015

CERTIFIED MAIL 70081830000024885332
RETURN RECEIPT REQUESTED

Mr. Brad Sheehan
Director of Safety, Agent for Service
ExpressJet Airlines, Inc.
990 Toffie Terrace
Atlanta, Georgia 30354-1356

Re: **NOTICE OF VIOLATION AND REQUEST FOR INFORMATION**

Aircraft Public Water System Identification Number: AC0000153

FAA Registry No: ~~N839AS~~ **N830AS**

The U.S. Environmental Protection Agency oversees implementation of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f – 300j-26, and the Aircraft Drinking Water Rule (ADWR), 40 C.F.R. §§ 141.800 – 810. To facilitate implementation of the ADWR, the EPA has developed a centralized, web-based Aircraft Reporting and Compliance System (ARCS) for air carriers to use as an Agency approved method to submit required information in an electronic format.

Based on the EPA's review of the data submitted in ARCS by ExpressJet Airlines, Inc., (ExpressJet), there have been a number of violations for the above mentioned aircraft public water system (APWS). These violations are identified below:

<u>APWS Identification #/ FAA Registry No)</u>	<u>Monitoring Period/ Reporting Deadline</u>	<u>Violation</u>
AC0000153 (N839AS)	01/01/14 – 12/31/14	-Failure to perform routine sampling -Failure to timely report the failure to perform routine sampling -Failure to timely perform all corrective actions for failure to perform routine sampling
	01/01/15 – 03/31/15	-Failure to timely report routine disinfection and flushing (D&F)

The above are violations of the SDWA and the ADWR as described below:

1. Pursuant to 40 C.F.R. § 141.803(b), for each APWS the air carrier must perform routine coliform sampling at the frequency specified in the sampling plan in 40 C.F.R. § 141.802.

According to the sampling plan information entered into ARCS by the air carrier, ExpressJet is required to conduct routine coliform sampling annually. The information in ARCS and reviewed by the EPA indicates that ExpressJet failed to perform routine

coliform sampling for the January 1, 2014 – December 31, 2014 monitoring period. Therefore, ExpressJet is in violation of 40 C.F.R. § 141.803(b), for failure to perform the routine coliform sampling.

2. Pursuant to 40 C.F.R. § 141.806(b)(5), for each APWS the air carrier must report to the EPA any failures to perform routine coliform sampling and/or D&F within 10 days of discovery.

The information entered into ARCS and reviewed by the EPA indicates that ExpressJet failed to timely report the failure to perform routine coliform sampling for the January 1, 2014 – December 31, 2014 monitoring period. ExpressJet entered “Not Performed” into ARCS on April 28, 2015, after becoming aware of the failure to perform the routine coliform sampling in January 2015. Therefore, ExpressJet is in violation of 40 C.F.R. § 141.806(b)(5), for failure to timely report the failure to perform the routine coliform sampling.

3. Pursuant to 40 C.F.R. § 141.803(f), for each APWS the air carrier must perform specific corrective actions when an air carrier fails to collect and analyze the required routine coliform samples and/or fails to perform the required routine D&F.

According to the information entered into ARCS by the air carrier, ExpressJet is required to perform specific corrective actions for failing to perform routine coliform sampling. The information in ARCS and reviewed by the EPA indicates that ExpressJet failed to timely perform all of the corrective actions required for the January 1, 2014 – December 31, 2014 monitoring period. ExpressJet failed to provide public notice to the passengers and/or crew within 72 hours of discovery of the failure to perform the routine coliform sampling. The public notification was due on January 3, 2015. ExpressJet didn't provide public notification until April 24, 2015, and entered this information into ARCS on April 28, 2015. Therefore, ExpressJet is in violation of 40 C.F.R. § 141.803(f), for failure to timely perform all corrective actions after failing to perform the routine coliform sampling.

4. Pursuant to 40 C.F.R. § 141.806(b)(3), for each aircraft water system the air carrier must report all routine sampling results and routine D&F events within 10 days following the end of the monitoring period of the required activity.
 - a. The information entered into ARCS and reviewed by the EPA indicates that ExpressJet failed to timely report the routine D&F for the January 1, 2015 – March 31, 2015 monitoring period. This activity was required to be entered into ARCS by April 10, 2015. However, ExpressJet reported the routine D&F event on April 23, 2015. Therefore, ExpressJet is in violation of 40 C.F.R. § 141.806(b)(3), for failure to timely report the routine D&F.
5. Pursuant to 40 C.F.R. § 141.810(a), an aircraft is in violation of the ADWR when for any APWS it fails to perform any of the requirements in accordance with § 141.803 or § 141.804. As discussed above ExpressJet violated 40 C.F.R. § 141.803 and therefore is also in violation of 40 C.F.R. § 141.810(a).

6. Pursuant to 40 C.F.R. § 141.810(d), an aircraft is in violation of the ADWR when for any aircraft water system it fails to comply with the reporting and recordkeeping requirements in accordance with 40 C.F.R. §§ 141.800 – 810. As discussed above ExpressJet violated 40 C.F.R. § 141.806 and therefore is also in violation of 40 C.F.R. § 141.810(d).

SDWA Section 1414, 42 U.S.C. § 300g-3, authorizes the EPA to take formal enforcement action against public water systems for violations of the national primary drinking water regulations, including ADWR. Therefore, within **ten (10) days** of receipt of this Notice of Violation, you or your representative must contact this office to arrange a meeting to show cause why the EPA should not initiate legal proceedings. In lieu of appearing in the EPA's offices for this meeting, a telephone conference may be scheduled. You or your representative should be prepared to provide all relevant information with documentation pertaining to the above violations. The EPA's legal counsel may be present at this meeting. You also have the right to have your legal counsel present.

To arrange the particulars of this meeting or to arrange for a telephone conference, please contact Ms. Amanda Driskell, at (404) 562-9735 or driskell.amanda@epa.gov. If you fail to attend the scheduled meeting/telephone conference or to contact Ms. Driskell prior to the meeting/conference date, the EPA may proceed with formal enforcement against you without further notice.

Please be advised that any information provided may be used by the EPA in any administrative, civil, or criminal proceedings related to this or other matters.

Enclosed is a document entitled *U.S. EPA Small Business Resources-Information Sheet* for your use and to assist you in understanding the compliance assistance resources and tools available to you.

If you have any questions or concerns, please contact Ms. Driskell, of my staff at the telephone number or email address above. Any legal inquiries should be directed to Ms. Wilda Cobb, Associate Regional Counsel, at (404) 562-9530 or cobb.wilda@epa.gov.

Sincerely,



James D. Giattina
Director
Water Protection Division

Enclosure

cc: Mr. Roderick Quinn
ExpressJet Airlines, Inc.
Dangerous Goods and Environmental Programs Manager

